



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

December 10, 1993
AO-93-30

Catherine Belbin, Town Clerk
Town of Acton
472 Main Street
Acton, MA 01720

Re: Ballot Question Committee's Durational Limitations

Dear Ms. Belbin:

This letter is in response to your August 16 and August 30, 1993 letters requesting an advisory opinion. I apologize for the delay in my response.

The documents submitted with your letters indicate that the Community Communications Committee ("the Committee") was founded in 1989 to promote passage of a Proposition 2 1/2 override ballot question in Acton.¹ The voters approved the question in an election held in April, 1989. Although the question which the Committee was created to influence passed, the Committee remained in existence and continued to raise funds and make expenditures to influence the vote on subsequent ballot questions in 1990, 1991 and 1993. The override passed in 1990 and 1991, but was defeated in 1993.

You have asked the following questions:

- (1) whether the Committee must dissolve after a Proposition 2 1/2 override question was voted on in June, 1993, and contribute the funds remaining in the Committee's account to a residual fund?
- (2) After settling all liabilities, how long can the Committee keep its account open?
- (3) Can the Committee use the funds currently in its account for any future override question?

This office does not ordinarily address, in advisory opinions, issues which have already occurred. Therefore, I will not comment directly on the Committee's past activity. This office is concerned, however, that ballot question committees understand their legal obligation to dissolve after a relevant election, and I believe an advisory opinion is the appropriate forum to review this matter and to provide guidance.

¹ Apparently, the Committee did not file a Statement of Organization until August, 1993, and that Statement is incomplete, since the Committee failed to state its purpose. I assume, based on the facts before me, that the purpose of the Committee was to promote passage of the override.

Section 6 of M.G.L. c. 55 regulates expenditures of all political committees, including local ballot question committees, and provides that monies and other things of value may be expended "for the enhancement of . . . the principle, for which the committee was organized. . . "

Section 18 of M.G.L. c. 55, as most recently amended by Chapter 175 of the Acts of 1991, provides that no political committee may convert residual funds "to the personal use of . . . any . . . person" but must donate such funds to the categorical grants fund, a scholarship fund, certain charitable organizations or the general fund of a city or town. In addition, section 18 provides that this office may petition the Supreme Judicial Court for the dissolution of a political committee, if:

(iii) such political committee was organized for the purpose of favoring or opposing the adoption or rejection of a question submitted to the voters and there has been a final determination made as to the adoption or rejection of such question. (Emphasis added).

Pursuant to the above statutory provisions, a political committee may organize to promote or oppose a specific, identifiable ballot question. Once organized, a political committee may receive contributions and expend money to achieve its goal, i.e., the adoption or rejection of a ballot question. However, once a final determination regarding adoption or rejection of a particular question has been made, the political committee must dissolve in accordance with M.G.L. c.55. If it does not dissolve, this office may petition the Supreme Judicial Court to dissolve the political committee.

The above conclusion is consistent with a major purpose of campaign finance legislation: the avoidance of corruption or the appearance of corruption. A ballot question committee has raised money from the public for a specific purpose. If a ballot question committee were permitted to continue in existence after a final determination of that question, the possibility (or at least the appearance of such a possibility) exists that monies raised for one purpose would be used for another purpose.²

This office has stated that "ongoing" ballot question political committees were not generally contemplated by the statute. See AO-91-21. Support of a particular question during one election cycle does not imply support during a subsequent cycle since economic, political and other conditions change.

2. Each Proposition 2 1/2 override in Acton from 1989 to 1993 was different. The amount which the Town would be able to assess in additional real estate and property taxes varied from \$690,000 (in 1989) to \$1,550,000 (in March, 1993). Moreover, the expenses which would be paid by municipal taxes differed from one year to the next. For example, in 1989 the taxes would be used to pay the operating expenses "of the Town Government, Local School System, and Regional School System . . . and for funding a Health Effects Study." In contrast, in March, 1993 the ballot question listed 13 departments of the Town which would receive funds, including, e.g., libraries, the Health Department, and the Cemetery Department.

For example, an Acton resident in 1989 might have felt that an override was appropriate, but by 1993, the same person might no longer hold this opinion, due to any number of reasons, including the increased size of the amount sought by the ballot question.

Ballot question committees must dissolve after the adoption or rejection of the ballot question which the committee was established to promote or oppose. Although there might be certain very limited circumstances where a committee is created to promote or oppose substantially identical ballot questions in more than one election cycle, where contributors would understand that their contributions may be used to promote or oppose a ballot question in a later election, this is not such a case.³ Here, the Committee has not filed a complete Statement of Organization. Moreover, nothing in the facts before this office suggests that individuals supporting the Proposition 2 1/2 override in 1989 would have expected that their contributions would not be used in 1989 and would instead be used for Proposition 2 1/2 overrides in later years.

It is the opinion of this office that a committee such as the Community Communications Committee must donate the funds now in the Committee's account, pursuant to M.G.L. c. 55, s. 18, to either (1) the Local Aid Fund; (2) an entity which is subject to M.G.L. c. 67 or M.G.L. c. 12, s. 8; (3) a scholarship fund; or (4) the general fund of any city or town in the commonwealth. The Committee must dissolve as soon as all liabilities are settled.⁴

This opinion has been rendered solely on the basis of the representations in your letter and your conversation with Gregory Birne of this office, and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this Office should you have additional questions.

Very truly yours,


Mary F. McTigue
Director

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³. In AO-91-21, a committee was able to remain in existence after an election since a "final determination" was never made by the voters regarding the relevant ballot question. Rather, the ballot question was removed by the Supreme Judicial Court for reasons relating to signatures of those supporting the question. In two earlier opinions, AO-83-06 and AO-84-05, this office stated that a ballot question committee must dissolve when the question is no longer at issue. In neither opinion did we consider the possibility of a committee being created to promote or oppose substantially identical ballot questions in more than one election cycle.

⁴. If an override question will be on the ballot in 1994, a new committee may organize for the specific purpose of promoting that question.